

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

KEWAN CALLICUTT,

Petitioner,

v.

JAMES M. HOLLOWAY,

Respondent.

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Case No. 3:15-cv-0044

Judge Nixon

ORDER

As an initial matter, the Clerk is **DIRECTED** to substitute James M. Holloway in his official capacity as the respondent in this action, as he is “the person who has custody over [the petitioner].” *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004); 28 U.S.C. § 2242; Fed. R. Civ. P. 25(d).

Kewan Callicutt, a prisoner in state custody, has filed a *pro se* petition under 28 U.S.C. § 2254 for the writ of habeas corpus (ECF No. 1, as amended by ECF No. 14), challenging the revocation of his parole. The respondent has filed a motion to dismiss the petition (ECF No. 13), along with relevant portions of the underlying administrative and state-court record. The petition is ripe for review, and this Court has jurisdiction. 28 U.S.C. § 2241(d).

As explained in the accompanying Memorandum Opinion, the Court finds that Mr. Callicutt failed to exhaust his state-court remedies. Accordingly, the motion to dismiss (ECF No. 13) is **GRANTED** and the habeas petition is hereby **DISMISSED WITHOUT PREJUDICE**.

Further, finding that the petitioner’s claims to not merit further review, the Court **DENIES** a Certificate of Appealability. The petitioner is notified that if he nonetheless seeks to

appeal this decision, he has 30 days after entry of judgment within which to file his notice of appeal in this Court. Fed. R. App. P. 4. If no express request for a certificate of appealability is filed, the notice of appeals constitutes a request addressed to the judges of the court of appeals for a Certificate of Appealability. Fed. R. App. P. 24.

It is so **ORDERED**.

This is a final judgment for purposes of Fed. R. Civ. P. 58.



JOHN T. NIXON, SENIOR JUDGE
UNITED STATES DISTRICT COURT